

## REMARKS

Claims 1-21 are pending and stand rejected. Applicants respectfully request reconsideration of the present application in view of the remarks below.

### *Claims Amendments*

Applicants cancel claims 1-21 and add new claims 22-41. Support for new claims 22-41 can be found throughout the specification and in originally-filed claims 1-21, thus no new matter is added. Applicants note that new independent claim 22 includes subject matter previously presented in claim 1, and in addition this claim requires that the eyelet be adapted to reinforce an opening at the end of the tunnel to prevent migration of a suture through an edge of the opening. Applicants further note that new independent claim 29 includes subject matter previously presented in claims 6 and 7, and in addition new claim 29 recites a head with a flange formed thereon that is adapted to prevent migration of a suture through bone at an edge of the opening of the tunnel. Support for these amendments can be found throughout the specification, for example, in paragraph 0031. No new matter is added.

### *Double Patenting*

Claims 1-5 and 12-21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-25 of U.S. Patent No. 5,860,978, and claims 6-11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 6,302,886. Applicants submit that new claims 22-42 are patentably distinct from claims 1-25 of U.S. Patent No. 5,860,978 and claims 1-8 of U.S. Patent No. 6,302,886. While claims 22-41 correspond to claims 1-21, which are now cancelled, new claims 22-41 require additional subject matter not previously recited in claims 1-21, thus further distinguishing claims 22-41 from claims 1-25 of

U.S. Patent No. 5,860,978 and claims 1-8 of U.S. Patent No. 6,302,886. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

***Rejection Pursuant to 35 U.S.C. §102(b)***

Claims 6-11 (which correspond to new claims 29-32) are rejected pursuant to 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,870,957 of Goble et al. (Goble). Applicants respectfully disagree.

New independent claim 29 recites a device for reinforcing a transosseous tunnel in bone that comprises an eyelet having a channel extending therethrough for receiving a suture. The eyelet includes a head with a flange formed thereon that is adapted to prevent migration of a suture through bone at an edge of the opening of the tunnel. Goble does not teach or even suggest an eyelet with a head having a flange formed thereon that is adapted to prevent migration of a suture through bone at an edge of the opening of the tunnel. As shown in Figures 4 and 5, Goble discloses a stud (10) and a threading footing (11) that is configured to receive stud (10). Neither the stud nor the threading footing include any type of flange formed thereof, much less a flange that is adapted to prevent migration of a suture through bone at an edge of the opening of the tunnel. In fact, since Goble's device is configured to be fully disposed within the bone tunnel, the stud and the footing cannot include any type of flange.

Accordingly, claim 29, as well as claims 30-32 which depend therefrom, distinguish over Goble and represent allowable subject matter.

***Conclusion***

In view of the amendments and remarks above, Applicants submit that claims 22-41 are in condition for allowance. In the event that the above amendments and remarks are not deemed to place this case in condition for allowance, an opportunity to interview with the Examiner is

requested. Applicants encourage the Examiner to telephone the undersigned upon receipt of this response to discuss any issues that may remain.

Respectfully submitted,

Date: January 6, 2004



Lisa J. Michaud

Reg. No. 44,238

Attorney for Applicant(s)

NUTTER, MCCLENNEN & FISH, LLP  
World Trade Center West  
155 Seaport Boulevard  
Boston, MA 02210-2699  
Tel: (617)439-2550  
Fax: (617)310-9550

1277226.1